(4)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR (M.P.)

WRIT PETITION NO. 5879 OF 2000.

PETITION UNDER ARTICLES 226/227 OF CONSTITUTION OF INDIA.

PETITIONERS .. 1. GHANSHYAM DEVANGAN,
son of Bishow, aged 35 years,
O.B.C. R/o Patan, District ~~XXXXXXXX~~
DURG.

2. SMT. KANTI DEVANGAN,
wife of Chaganlal Devangan,
age 31 years, O.B.C. Resident of
Patan, District DURG.

3. Lal Kunwar Singh Sori,
son of B.S. Sori, age 38 yearss,
Resident of Patan District DURG.

VERSUS

RESPONDENTS .. 1. STATE OF MADHYA PRADESH THROUGH
Secretary, Department of Revenue,
Vallabh Bhawan, BHOPAL.

2. COLLECTOR DURG,
District Durg, M.P.

3. TAHSILDAR PATAN,
District Durg, MP.

4. MANAGER, Dena Bank,
Branch Patan, District Durg, M.P.

Surendra Kumar Khare
S. K. Khare
09/10
Oath Commissioner JBP.

1. Particulars of the petitioners.
As given in the cause title above.

2. Particulars of the Respondents.
As given in the cause title above.

Contd..2.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(69)

आदेश पत्रक

मामला क्रमांक W.P. No.5827/ सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.12.2001

Shri P.P.Sahu, learned counsel for the petitioners.

Shri P.S.Koshy, learned counsel for the respondent No.4 / Manager, Dena Bank.

Shri Rajeev Shrivastava, learned Panel Lawyer for the respondent / State.

Heard.

The petitioner No.1 took loan of Rs.95,000/- in the year 1987, petitioner No.2 took loan of Rs.95,000/- in the year 1995 and petitioner No.3 took loan of Rs.95,000/- in the year 1996. At the relevant time, the Madhya Pradesh Lok Dhan (Shodhya Rashiyon ki Vasuli) Adhiniyam 1987 was in vogue. Section 3 of the said Act is as regards recovery of certain dues as arrears of land revenue. Section 3(B) includes ~~in transaction~~ "under a socially desirable scheme".

It is submitted on behalf of the respondents that the said scheme availed by the writ petitioners would clearly come within the purview of socially desirable scheme. Obviously, in terms of the aforesaid provision a notice was issued by the Tahsildar to the writ petitioners for recovery of the loans under Prime Minister Rojgar Yojna under Revenue Recovery Certificate (R.R.C.). Obviously, such notices were issued on failure of repayment of the

[पीछे देखिये

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loan in time. The main contention made before this Court is that at the relevant time when notices were issued, the Tahsildar concerned had no such jurisdiction to issue such notices for recovery under the Act as R.R.C, inasmuch as the said Prime Minister Rojgar Yojna did not come within the purview of the aforesaid Adhiniyam 1987. It may be stated that by an amendment effected in 2000 vide notification dated 13th September, 2000, the said PMRY has been included within the purview of the aforesaid Act. It is mentioned in clause IV of the notification as follows:-

PRIME MINISTER ROJGAR YOJNA (PMRY)

Shri P.P.Sahu, submits that clearly this scheme was not within the purview of the aforesaid Act before the amendment was effected in 2000. It has been urged by Shri P.S.Koshy, as well as Shri Rajeev Shrivastava that though this scheme has been clearly specified in the amendment such programme was otherwise stipulated as socially desirable scheme.

After hearing the submissions of the parties, I am of the view that since amendment of the aforesaid Adhiniyam notified in the year 2000 as specifically mentioned the scheme under which loan was given to the writ petitioner. In my view notices issued prior to the coming into force of the amendment cannot be said to have been validly issued. Facts remaining the same, I am of the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(70)

आदेश पत्रक

मामला क्रमांक W.P.No.5877/ सन् 2000

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	view that it will be fair that fresh notices are issued by the Tahsildar and the petitioners are given opportunity to say what they wish to say and act thereafter in terms of the provisions of the aforesaid Act for the purpose of recovery of loans under R.R.C. With the above direction and observation, this petition is disposed of. Notices issued earlier are set aside. Certified copy as per rules. Sd/- Chief Justice	